IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Writ Petition No.1370 of 2004

Mrs.Vanita Chiplunkar — Petitioner
Vs.
The State of Maharashtra & ors. — Respondents

Mr.Harshad Bhadbhade for petitioner.
Mr.D.R.More, APP for State.

CORAM: B.H.MARLAPALLE, J.

July 31, 2007.

P.C.

. Heard Mr.Bhadbhade, the learned counsel for the applicant who is the complainant against the accused. She has filed an FIR for the offence punishable under Section 3(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Sessions Case No. 13 of 2002 arises from the said FIR and after the charge-sheet was filed for the offences punishable under Sections 147, 148, 427, 509, 506 and 504 of IPC and Section 3(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 7(i)(d) of the Prevention of Civil Rights Act, the trial has already commenced. The complainant was in the witness box and on 9/5/2002 the learned Prosecutor submitted an application praying for witness summons to be issued to the Deputy Collector, Chiplun. The said

application at Exhibit 41 has been rejected by the learned Special Judge on 11/10/2002.

. The burden to prove the complainant's caste is on the complainant herself as PW 3 - Vanita, the present petitioner and her original caste certificate has to be in her custody. The Deputy Collector cannot be the custodian of such caste certificates. If the photostat copy of the caste certificate was already on record it was for the Prosecutor to take appropriate steps to prove the same. Hence the order impugned cannot be termed as grossly erroneous or perverse.

. The petition is, therefore, rejected summarily. However, this order will not come in the way of the Prosecutor to bring on record such documentary evidence which will go to prove the caste of the complainant.

(B.H.MARL